

§ 209.1 Admission for permanent residence after one year.

(a) *Eligibility.* (1) Every alien in the United States as a refugee under § 207 of this chapter whose status has not been terminated, is required to appear before an immigration officer one year after entry to determine his/her admissibility under sections 235 and 240 of the Act. The applicant shall be examined under oath to determine admissibility. If the applicant is found to be admissible, he/she shall be inspected and admitted for lawful permanent residence as of the date of the alien's arrival in the United States. If the applicant is determined to be inadmissible, he/she shall be informed that he/she may renew the request for admission to the United States as an immigrant in exclusion proceedings under section 236 of the Act. The provisions of this section shall provide the sole and exclusive procedure for adjustment of status by a refugee admitted under section 207 of the Act, whose application is based on his/her refugee status.

(2) Every alien processed by the Immigration and Naturalization Service abroad and paroled into the United States as a refugee after April 1, 1980, and before May 18, 1980 shall be considered as having entered the United States as a refugee under section 207(a) of the Act.

(b) *Processing Application.* One year after arrival in the United States, every refugee entrant shall be notified to appear for examination before an immigration officer. Each applicant shall be examined under oath to determine eligibility for permanent residence. If the refugee entrant has been physically present in the United States for at least one year, forms FD-258 (Applicant Card) and G-325A (Biographical Information) will be processed. Unless there were medical grounds for exclusion at the time of arrival, a United States Public Health Service medical examination is not required. If the alien is found admissible after inspection under section 209(a) of the Act, he/she shall be processed for issuance of Form I-551 (Alien Registration Receipt Card).

[46 FR 45119, Sept. 10, 1981, as amended at 62 FR 10346, Mar. 6, 1997]

§ 209.2 Adjustment of status of alien granted asylum.

The provisions of this section shall be the sole and exclusive procedure for adjustment of status by an asylee admitted under section 208 of the Act whose application is based on his or her asylee status.

(a) *Eligibility.* (1) Except as provided in paragraph (a)(2) of this section, the status of any alien who has been granted asylum in the United States may be adjusted by the district director to that of an alien lawfully admitted for permanent residence, provided the alien:

- (i) Applies for such adjustment;
- (ii) Has been physically present in the United States for at least one year after having been granted asylum;
- (iii) Continues to be a refugee within the meaning of section 101(a)(42) of the Act, or is the spouse or child of a refugee;
- (iv) Has not been firmly resettled in any foreign country; and
- (v) Is admissible to the United States as an immigrant under the Act at the time of examination for adjustment without regard to paragraphs (4), (5)(A), (5)(B), and (7)(A)(i) of section 212(a) of the Act, and (vi) has a refugee number available under section 207(a) of the Act.

If the application for adjustment filed under this part exceeds the refugee numbers available under section 207(a) of the Act for the fiscal year, a waiting list will be established on a priority basis by the date the application was properly filed.

(2) An alien, who was granted asylum in the United States prior to November 29, 1990 (regardless of whether or not such asylum has been terminated under section 208(b) of the Act), and is no longer a refugee due to a change in circumstances in the foreign state where he or she feared persecution, may also have his or her status adjusted by the district director to that of an alien lawfully admitted for permanent residence even if he or she is no longer able to demonstrate that he or she continues to be a refugee within the meaning of section 101(a)(42) of the Act, or to be a spouse or child of such a refugee or to have been physically present in the United States for at

least one year after being granted asylum, so long as he or she is able to meet the requirements noted in paragraphs (a)(1)(i), (iv), and (v) of this section. Such persons are exempt from the numerical limitations of section 209(b) of the Act. However, the number of aliens who are natives of any foreign state who may adjust status pursuant to this paragraph in any fiscal year shall not exceed the difference between the per country limitation established under section 202(a) of the Act and the number of aliens who are chargeable to that foreign state in the fiscal year under section 202 of the Act. Aliens who applied for adjustment of status under section 209(b) of the Act before June 1, 1990, are also exempt from its numerical limitation without any restrictions.

(b) *Inadmissible Alien.* An applicant who is inadmissible to the United States under section 212(a) of the Act, may, under section 209(c) of the Act, have the grounds of inadmissibility waived by the district director (except for those grounds under paragraphs (27), (29), (33), and so much of (23) as relates to trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. An application for the waiver may be filed on Form I-602 (Application by Refugee for Waiver of Grounds of Excludability) with the application for adjustment. An applicant for adjustment who has had the status of an exchange alien nonimmigrant under section 101(a)(15)(J) of the Act, and who is subject to the foreign resident requirement of section 212(e) of the Act, shall be eligible for adjustment without regard to the foreign residence requirement.

(c) *Application.* An application for the benefits of section 209(b) of the Act may be filed on Form I-485, with fee, with the district director having jurisdiction over the applicant's place of residence. A separate application must be filed by each alien, and if the alien is 14 years or older it must be accompanied by a completed Form G-325A (Biographical Information) and Form FD-258 (Applicant Card). Except as provided in paragraph (a)(2) of this section, the application must also be supported by evidence that the applicant

has been physically present in the United States for at least one year. If an alien has been placed in deportation, exclusion, or removal proceedings under any section of this Act (as effective on the date such proceedings commenced), the application can be filed and considered only in those proceedings.

(d) *Medical Examination.* Upon acceptance of the application, the applicant shall submit to an examination by a selected civil surgeon as required by sections 221(d) and 234 of the Act. The report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record.

(e) *Interview.* Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. The interview may be waived for a child under 14 years of age.

(f) *Decision.* The applicant shall be notified of the decision, and if the application is denied, of the reasons for denial. No appeal shall lie from the denial of an application by the district director but such denial will be without prejudice to the alien's right to renew the application in proceedings under parts 242 and 236 of this chapter. If the application is approved, the district director shall record the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application, but not earlier than the date of the approval for asylum in the case of an applicant approved under paragraph (a)(2) of this section.

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PART 210—SPECIAL AGRICULTURAL WORKERS

Sec.

210.1 Definition of terms used in this part.

210.2 Application for temporary resident status.

210.3 Eligibility.

210.4 Status and benefits.

210.5 Adjustment to permanent resident status.

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